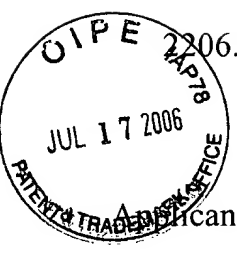


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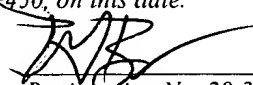
PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Edward D. Brill
Serial No.: 09/855,989
Conf. No.: 9366
Filed: 05/15/2001
For: VIBRATOR MOTOR
Art Unit: 3724
Examiner: Jason D. Prone

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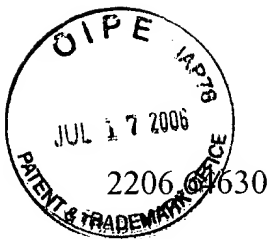
July 12, 2006
Date


Registration No. 29,367
Attorney for Applicant

APPELLANTS' REPLY TO EXAMINER'S ANSWER UNDER 37 C.F.R. 41.41

Patrick G. Burns
GREER, BURNS & CRAIN, LTD.
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Date: July 12, 2006




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APPELLANTS REPLY TO EXAMINER'S ANSWER UNDER 37 C.F.R. 41.41

Mail Stop APPEAL BRIEF-PATENTS
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This Reply Brief is in Response to the Examiner's Answer mailed May 15,
2006.

ARGUMENT

Appellants' brief argues, among other things, that the relay art is not analogous to the art of vibrator motors, citing *In re Clay*, 23 USPQ2d 1058 (Fed. Cir. 1992). In response, the Examiner introduced a dictionary definition of "relay" for the first time, without evidentiary support, to argue that a relay is a servomotor, which is a motor and is therefore in the field of vibratory motors. The Examiner did not distinguish or even address *In re Clay*. This reply will respond to the Examiner's new evidence with actual dictionary definitions of "relay" and "servomotor," and show that the Examiner's argument does not support his conclusion.

The Examiner contends that the term "relay" is defined in Miriam Webster's Collegiate Dictionary 10th Edition as a "servomotor", without attaching a copy of the dictionary definition. The American Heritage Dictionary defines a "relay" in this context as "a device that responds to a small current or voltage change by activating switches or other devices in an electric circuit." (Exhibit A). A "servomotor" is defined as "a motor that controls the action of the mechanical device in a servomechanism." (Exhibit B). Thus, "relay" is not defined as a "servomotor," and the definition of "servomotor" does not refer to or include "relays."

A relay is not a motor. A relay is used as a switch, which closes and opens electrical contacts in a positive on-positive off manner. As Applicants' dictionary definition recognizes, a relay controls other mechanisms, which might include a servomotor, using a small current or voltage to activate the relay switch contacts. In contrast, a servomotor does

not have such switch contacts, and does not control other mechanisms with its own contacts. Thus, relays are simply not in the same field of technology as servomotors (or vibrator motors), and even the dictionary definition described by the Examiner (but not supported with evidence) does not support the argument that relays and vibrator motors are in analogous arts.

Moreover, the Examiner has not distinguished this case from *In re Clay*, where the Court found that a reference relating to sealing petroleum in underground reserves was not analogous for purposes of rejecting an application that described removing refined oil from the bottom of a storage tank.

CONCLUSION

For the foregoing reasons, Applicants respectfully request that the rejection of claims 1 and 17 and their related dependent claims be reversed, with instructions to allow this application.

Respectfully submitted,

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By 

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July 12, 2006

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[Printer friendly](#) [Cite / link](#) [Email](#) [Feedback](#)**ser·vo·mo·tor** (sûr'vō-mō'tôr)

n.

A motor that controls the action of the mechanical device in a servomechanism.

[French *servomoteur*: Latin *servus*, *slave* + French *moteur*, *motor* (from Old French, from Latin *mōtor*, *that which sets in motion*; see **motor**).]

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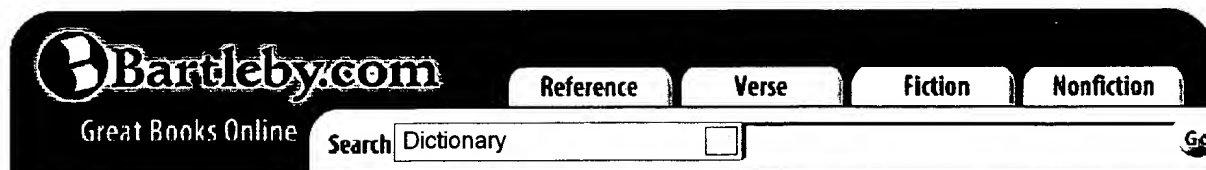
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The American Heritage® Dictionary of the English Language: Fourth Edition. 2000.

relay

SYLLABICATION: re·lay

PRONUNCIATION: rē'lä

NOUN: **1.** An act of passing something along from one person, group, or station to another. **2. Sports** **a.** A relay race. **b.** A division of a relay race. **3. Electronics** A device that responds to a small current or voltage change by activating switches or other devices in an electric circuit. **4.** A crew of workers who relieve another crew; a shift. **5.** A fresh team, as of horses or dogs, to relieve weary animals in a hunt, task, or journey.

TRANSITIVE VERB: Inflected forms: **re·layed**, **re·lay·ing**, **re·lays**

(rē'lä, rī-lä') **1.** To pass along by or as if by relay: *relayed the message to his boss.* **2.** To supply with fresh relays. **3. Electronics** To control or retransmit by means of a relay.

ETYMOLOGY: Middle English *relai*, fresh team of dogs for a hunt, from Old French, from *relaier*, to relay : *re-*, *re-* + *laier*, to leave (of Germanic origin; see **leip-** in Appendix I).

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| Servo-motor | ■ Servo motors | ■ servomechanism | ■ Servotron |
| Servocontrol | ■ Servo motors | ■ servomechanism | ■ Servowriter |
| servomechanical | ● Servo Power | ● servomechanisms | ● SERVQUAL |
| servomechanism | Amplifier | ■ servomechanisms | ■ SERVQUAL |
| ▶ servomotor | ■ Servo tab | ■ servomechanisms | ■ ServSafe |
| servosystem | ■ Servo Venia | ■ servomechanisms | ● SERVSCOLCOM |
| Serye | ● Servo-actuator | ▶ servomotor | ● SERVSCOLCOM |
| Serzone | Test Station | ● servomotors | ■ Servus |
| SES | ■ Servo-Bulgarian | ● Servos | ■ Servus Servorum |
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| sesame family | ● Servo- | ● Servos | ■ Seryoga |
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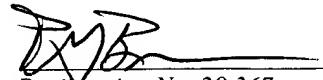
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July 12, 2006
Date


Registration No. 29,367
Attorney for Applicant

TRANSMITTAL

Mail Stop APPEAL BRIEF-PATENTS
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Transmitted herewith is a communication regarding the above-identified application.

(X) Appellant's Reply to Examiner's Answer Under 37 C.F.R. 41.41 (in triplicate).

(X) The Commissioner is hereby authorized to charge any additional fees which may be required to this application under 37 C.F.R. 1.16-1.17, or credit any overpayment, to Deposit Account No. 07-2069. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 07-2069. A duplicate copy of this sheet is enclosed.

(X) If a Petition under 37 C.F.R. 1.136(a) for an extension of time for response is required to make the attached papers timely and does not separately accompany this transmittal, Applicant hereby petitions under 37 C.F.R. 1.136(a) for an extension of time for response in the above-identified application for the period required to make the attached response timely.

Customer No. 24978

July 12, 2006

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Respectfully submitted,
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By 

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